

101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2803-1991 (O/M)

Date of decision : 22.10.2024

Inderpal Sood

..... Petitioner(s)

Versus

The Financial Commissioner, Punjab and others Respondent(s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Anish Setia, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG Punjab.

Mr. Aman Pal, Ms. Sweta Beniwal, Advocates
for respondent No. 2.

Mr. Sandeep Wadhawan, Advocate
for applicant in CM-20440-2005.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Inderpal Sood) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for quashing the order dated 16.08.1990 (Annexure P-4), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner'), whereby the petition under Section 33 of Displaced Persons (Compensation and Rehabilitation) Act, 1954 (in short '1954 Act'), filed by present petitioner against order dated 08.01.1990 (Annexure P-3), passed by learned Deputy Commissioner-cum-Chief Settlement Commissioner, Amritsar (in short 'Commissioner'), was dismissed and order dated 08.01.1990 (Annexure P-3), was upheld.

2. Briefly, the petitioner (Inderpal Sood) claims that he and his brother (Satpal), were displaced persons from West Pakistan and they had verified claims in lieu of their properties abandoned in Pakistan, for which they submitted compensation applications before the concerned authority.

2.1 It transpires that the petitioner alongwith his brother participated in an open auction, conducted on 29.01.1960 by District Rent and Managing Officer, Amritsar (working under Ministry of Rehabilitation, Government of India), wherein they claim to have purchased property No. 614-615, situated in Town Patti, District Amritsar, for an amount of Rs. 20,000/-. According to the petitioner, he and his brother-Satpal were asked to furnish indemnity bond and also the particulars of their verified claims covered under their compensation applications, so that the compensation amount due to them could be adjusted against the sale price of the auctioned property. It is stated that the District Rent and Managing Officer issued Form-F (Annexure P-1) on dated 26.05.1960, transferring the aforesaid purchased property in favour of petitioner and his brother-Satpal, whereunder, the Managing Officer was authorized to realize the balance amount due from the petitioner and his brother-Satpal as arrears of land revenue under Section 20 of 1954 Act. It is further stated that a part of the purchased property was under the tenants.

2.2 It appears that an amount of Rs. 6782.88 paise was adjusted towards the sale price of the purchased property out of the compensation claim of Shri Satpal (brother of petitioner) and on 09.12.1981, Shri Satpal (father of respondent No. 2) applied for finalization of the auction sale.

Petitioner is also stated to have submitted a similar application for finalization of sale on 05.10.1982. It appears that the file pertaining to the aforesaid sale was misplaced in the office of Managing Officer, whereupon the Settlement Officer (Urban) directed reconstruction of the sale file, vide his order dated 17.08.1982, however, of no avail.

2.3 It transpires that the Assistant Registrar of Rehabilitation Department passed an order dated 23.07.1984 (Annexure P-2), cancelling the sale in favour of petitioner and his brother-Satpal and further holding that the property was of the Government and the same be disposed of by way of re-auction.

2.4 The order dated 23.07.1984 (Annexure P-2) was challenged by petitioner and his brother by filing two separate appeals, which were dismissed by learned Sales Commissioner on 15.01.1988. Thereafter, the petitioner and his brother (Satpal) preferred two revision petitions before the Chief Settlement Commissioner, Amritsar, which were also dismissed, vide order dated 08.01.1990 (Annexure P-3).

2.5 Apparently, no further challenge was raised to the aforesaid orders at the behest of Shri Satpal (father of respondent No. 2). Accordingly, the said orders attained finality as regards Shri Satpal is concerned. However, petitioner further preferred a petition under Section 33 of 1954 Act before the learned Financial Commissioner, which was also dismissed, vide order dated 16.08.1990 (Annexure P-4).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. The only contention raised by learned counsel for petitioner is that the auction sale in favour of the petitioner and his brother-Satpal

could not have been cancelled for non-payment of balance amount as the said amount was to be recovered by the Government by way of arrears of land revenue. In this regard, the reliance is placed upon a judgment of this Court in ***Mehanga Ram Versus Financial Commissioner, Punjab 1994 PLJ 113.***

5. Heard.

6. In the instant case, the auction sale in favour of the petitioner and his brother (Satpal) was cancelled, vide order dated 23.07.1984 (Annexure P-2) by holding as under :-

“ I have gone through the case minutely. I have heard in detail Sh. J.R. Aggarwal-counsel for Sh. Sat Pal Sood and Shri Puran Chand Arora-counsel for Sh,. Inder Pal. Sh. J.R. Aggarwal argued that property No. 614-15/Patti had been purchased by the Sat Pal for an amount of Rs. 20,000 and that Rs. 6782/88 paise had been adjusted against the sale price. For realisation of the balance amount, notice ought to have been issued under Rule 90 (13) of the Displaced Persons (C and R) Act, 1954 which has not been issued. He is ready to pay the balance amount. This amount be got deposited and sale deed be issued. No amount has been deposited by Inderpal and his claim stood exhausted. Thus Inderpal is not share holder in the property. Sh. Puran Chand Arora counsel for Sh. Inderpal stated by making reference of letter dated 26.5.60 of Form 'F' that Inderpal is co-sharer in the purchase of the property and that he is prepared to pay for the amount payable by him. Therefore, the sale deed may be issued in the name of both the purchasers.

I have inspected property No. 614-615/Patti. Here the office of the State Bank of Patiala is running and made enquiry from the Manager of this Bank. The Bank Manager,

told me in this regard that he had taken on lease the building in the year 1960 on rent from Baij Nath s/o Lekh Raj and nobody has realised the rent of this building after 1970. Therefore the rent of this building is being deposited in the name of Baij Nath s/o Lekh Raj. The documents of the rent deed would be in Head Office Jalandhar. Letter dated 5.7.84 has been received from the Head Office State Bank of Patiala, Jalandhar in this office which shows that this building had been taken on rent as lessee but the lease deed is not traceable to them. The copy of letter dated 26.5.60-Form 'F' depicts that the co-sharer of the purchase of the property are Sat Pal and Inder Pal but no amount was paid by Inder Pal for this property and that no claim is due to Inder Pal. He had also filed affidavit on 11.9.82 that he had no share on this property.

Therefore I have reached the conclusion that Inderpal is not co-sharer in anyway in this property. Sh. Sat Pal Sood had got adjusted the amount of Rs. 6782/88 paise in the purchase of this property and the balance amount has not been deposited by him so far. He had purchased this property in 1960 but he has not filed any application for deposit of the balance amount within this twenty years. He had applied to obtain the lease deed on 9.12.81 when the sale file was requisitioned. By this office. The Settlement Officer, New Delhi vide his order dated 18.9.82 directed that the amount of Rs. 6782/88 paise stands deposited against property No. 614-615 and that this property had been auctioned. Auction-purchaser must have acceptance letter but Sh. J.R. Aggarwal-counsel for Sat Pal Sood had not adduced the same which could show that the bid of this property had been accepted. The original file relating to this sale is not traceable in the Delhi office or in the office of the District Rent and Managing Officer, Amritsar from which it could be proved as to what is the position of this

property's auction. The auction-purchaser has been silent for twenty years. It transpired from the site-inspection of the property that State Bank of Patiala is running in this property and they told me that this building had been taken on rent from Sh. Baij Nath son of Lekh Raj but they do not have any lease deed. Since the auction purchaser Sat Pal has not obtained the sale deed from the department, he could not give the property on lease. Sh. Baij Nath son of Lekh Raj who gave the property on lease are some other persons which are not known to the court. It is not even known to the counsel for Sat Pal and Inderpal as where does he live. The Bank has stopped paying rent to Baij Nath after the year 1970.

Therefore, no valid party has possession of this property nor it is in the ownership of any person. Therefore, this property belongs to the Government and it be disposed of by way of auction. The application of Sat Pal is filed. Sat Pal who can seek remedy for the amount got adjusted against payment of this property from any court of competent jurisdiction.”

7. A perusal of the above extracted findings would show that the petitioner (Inderpal Sood) had not paid any amount for the property in question nor any claim was due to him. It is further made out that the petitioner submitted an affidavit on 11.09.1982 stating that he had no share in this property.

7.1 During the course of hearing, a pointed query was raised to learned counsel for petitioner as to whether the petitioner had submitted the aforesaid affidavit on 11.09.1982 stating that he had no share in this property. In response, learned counsel for petitioner admitted the filing of aforesaid affidavit dated 11.09.1982 by the petitioner and also the contents thereof.

7.2 In my considered view, once the petitioner knowingly abandoned his claim in respect of the property in question, accordingly, he has no right to challenge the cancellation of the auction sale made, vide order dated 23.07.1984 (Annexure P-2), which has been further upheld upto learned Financial Commissioner.

8. That apart, at the cost of repetition, it is noticeable that Shri Satpal (brother of petitioner and father of respondent No. 2) had also accepted the aforesaid order dated 23.07.1984 (Annexure P-2) cancelling the auction sale; in as much as that after his appeal and revision were rejected by the authorities below, he chose not to agitate his claim any further.

9. As regards the reliance placed by learned counsel for petitioner on the case of ***Mehanga Ram (supra)***, suffice it to say that the said judicial pronouncement is distinguishable on facts and the same does not advance the cause of the petitioner.

10. In the aforementioned facts and circumstances, I do not find any merit in the present petition and the same is accordingly dismissed.

11. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

22.10.2024
sjks

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No